
SENATE BILL 6858

State of Washington

60th Legislature

2008 Regular Session

By Senators Franklin, Kohl-Welles, and Hargrove

Read first time 01/29/08. Referred to Committee on Labor, Commerce, Research & Development.

1 AN ACT Relating to excluding from employment services performed by
2 sports officials; amending RCW 51.12.020; and adding a new section to
3 chapter 50.04 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 50.04 RCW
6 to read as follows:

7 "Employment" shall not include services performed by a sports
8 official in a youth or adult sports contest whose services are retained
9 on a contest-by-contest basis. For the purposes of this section,
10 "sports official" means a person who administers the rules of a game or
11 sport such as a referee or umpire.

12 **Sec. 2.** RCW 51.12.020 and 1999 c 68 s 1 are each amended to read
13 as follows:

14 The following are the only employments which shall not be included
15 within the mandatory coverage of this title:

16 (1) Any person employed as a domestic servant in a private home by
17 an employer who has less than two employees regularly employed forty or
18 more hours a week in such employment.

1 (2) Any person employed to do gardening, maintenance, or repair, in
2 or about the private home of the employer. For the purposes of this
3 subsection, "maintenance" means the work of keeping in proper
4 condition, "repair" means to restore to sound condition after damage,
5 and "private home" means a person's place of residence.

6 (3) A person whose employment is not in the course of the trade,
7 business, or profession of his or her employer and is not in or about
8 the private home of the employer.

9 (4) Any person performing services in return for aid or sustenance
10 only, received from any religious or charitable organization.

11 (5) Sole proprietors or partners.

12 (6) Any child under eighteen years of age employed by his or her
13 parent or parents in agricultural activities on the family farm.

14 (7) Jockeys while participating in or preparing horses for race
15 meets licensed by the Washington horse racing commission pursuant to
16 chapter 67.16 RCW.

17 (8)(a) Except as otherwise provided in (b) of this subsection, any
18 bona fide officer of a corporation voluntarily elected or voluntarily
19 appointed in accordance with the articles of incorporation or bylaws of
20 the corporation, who at all times during the period involved is also a
21 bona fide director, and who is also a shareholder of the corporation.
22 Only such officers who exercise substantial control in the daily
23 management of the corporation and whose primary responsibilities do not
24 include the performance of manual labor are included within this
25 subsection.

26 (b) Alternatively, a corporation that is not a "public company" as
27 defined in RCW 23B.01.400(~~(+21)~~) may exempt eight or fewer bona fide
28 officers, who are voluntarily elected or voluntarily appointed in
29 accordance with the articles of incorporation or bylaws of the
30 corporation and who exercise substantial control in the daily
31 management of the corporation, from coverage under this title without
32 regard to the officers' performance of manual labor if the exempted
33 officer is a shareholder of the corporation, or may exempt any number
34 of officers if all the exempted officers are related by blood within
35 the third degree or marriage. If a corporation that is not a "public
36 company" elects to be covered under subsection (8)(a) of this section,
37 the corporation's election must be made on a form prescribed by the
38 department and under such reasonable rules as the department may adopt.

1 (c) Determinations respecting the status of persons performing
2 services for a corporation shall be made, in part, by reference to
3 Title 23B RCW and to compliance by the corporation with its own
4 articles of incorporation and bylaws. For the purpose of determining
5 coverage under this title, substance shall control over form, and
6 mandatory coverage under this title shall extend to all workers of this
7 state, regardless of honorary titles conferred upon those actually
8 serving as workers.

9 (d) A corporation may elect to cover officers who are exempted by
10 this subsection in the manner provided by RCW 51.12.110.

11 (9) Services rendered by a musician or entertainer under a contract
12 with a purchaser of the services, for a specific engagement or
13 engagements when such musician or entertainer performs no other duties
14 for the purchaser and is not regularly and continuously employed by the
15 purchaser. A purchaser does not include the leader of a group or
16 recognized entity who employs other than on a casual basis musicians or
17 entertainers.

18 (10) Services performed by a newspaper carrier selling or
19 distributing newspapers on the street or from house to house.

20 (11) Services performed by an insurance agent, insurance broker, or
21 insurance solicitor, as defined in RCW 48.17.010, 48.17.020, and
22 48.17.030, respectively.

23 (12) Services performed by a booth renter (~~as defined in RCW~~
24 ~~18.16.020~~). However, a person exempted under this subsection may
25 elect coverage under RCW 51.32.030.

26 (13) Members of a limited liability company, if either:

27 (a) Management of the company is vested in its members, and the
28 members for whom exemption is sought would qualify for exemption under
29 subsection (5) of this section were the company a sole proprietorship
30 or partnership; or

31 (b) Management of the company is vested in one or more managers,
32 and the members for whom the exemption is sought are managers who would
33 qualify for exemption under subsection (8) of this section were the
34 company a corporation.

35 (14) A person performing services as a sports official, as defined
36 in section 1 of this act, in a youth or adult sports contest whose

1 services are retained on a contest-by-contest basis.

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